IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 23RD JULY 2007 / 1ST SRAVANA 1929

WP(C).No. 22514 of 2007(E)

PETITIONERS:
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1. **SANTHOSH JOSEPH, PUTHULLIL HOUSE, KOMBARA JUNCTION, KOCHI-18, FORMER OWNER OF NEDUMPARA ESTATE, REP.BY HIS P/A HOLDER MR.C.C.VARGHESE, MAPPILACHERRIL HOUSE, KAILASANADU, NEDUMKANDAM.**

2. **GEORGEKUTTY JOSEPH, PUTHULLIL HOUSE, KOMBARA JUNCTION, KOCHI-18, FORMER OWNER OF NEDUMPARA ESTATE, REP.BY HIS POWER OF ATTORNEY HOLDER, MR.C.C.VARGHESE, MAPPILACHERRIL HOUSE, KAILASANADU, NEDUMKANDAM.**

BY ADV. SRI.RAMESH CHERIAN JOHN

RESPONDENTS:
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1. **THE ASST.PROVIDENT FUND COMMISSIONER, EMPLOYEES PROVIDENT FUND ORGANISATION, SUB REGIONAL OFFICE, CHALAKUZHY BUILDINGS, KOTTAYAM.**

2. **THE EMPLOYEES PROVIDENT FUND APPELLATE TRIBUNAL, 60 SKYLARK BUILDING, NEHRU PLACE, NEW DELHI.**

BY ADV.SRI.JOY THATTIL ITTOOP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S.SIRI JAGAN,J

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W.P.(C).No.22514 of 2007

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Dated this the 23rd day of July 2007

JUDGMENT

The petitioner claims to have sold his establishment, in spite of which the first respondent sought to recover damages from the petitioner for delay in payment of contributions under the Employment Provident Funds and Miscellaneous Provisions Act, even for the period subsequent to the date of transfer. Challenging the same, the petitioner filed an appeal and stay petition before the second respondent Tribunal. In spite of pendency of the appeal and the stay petition, the first respondent initiated recovery proceedings for recovery of the disputed amounts. The petitioner approached this Court and obtained Ext.P19 judgment whereby this Court suspended the coercive steps for recovery for a period of four months to enable the petitioner to move the application for stay before the Tribunal on condition that the petitioner pays an amount of Rs.25,000/- within three weeks. The petitioner submits that he has paid the said amount. However, even after four months the Tribunal has

not considered the stay application. In the above circumstances, the petitioner has filed this writ petition for seeking following reliefs:-

i) “Revive and extend the stay granted by this Hon'ble Court in W.P.(C).No.3377/07 and direct the 2nd respondent to dispose off Ext.P18(A) after giving notice to the petitioner as expeditiously as possible.

ii) In the alternative issue a writ of mandamus directing the 1st respondent to keep in abeyance all further proceedings pursuant to Ext.P15, till the disposal of Ext.P18 appeal.”

I have heard the learned counsel for the petitioner and also the Standing counsel for the Provident Fund Organisation. From Ext.P20 I find that after obtaining Ext.P19 judgment the petitioner had actually moved the Tribunal for hearing the stay application. It is also not in dispute before me that the petitioner has already paid the amount of Rs.25,000/- in compliance with Ext.P19 judgment. In the above circumstances I direct that further coercive proceedings for recovery of the balance amount shall be kept in abeyance till the second

respondent Tribunal passes orders on Ext.P18(a) stay application.

The writ petition is disposed of as above.

S.SIRI JAGAN, JUDGE

dvs